

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

TONY PRECILIAND OVERTON,                         )  
  )  
  )  
Petitioner,    )  
  )  
  )  
-vs-    ) Case No. CIV-19-598-F  
  )  
RAYMOND BYRD, Warden,                              )  
et al.,    )  
  )  
  )  
Respondents.    )

**ORDER**

On July 8, 2019, United States Magistrate Judge Gary M. Purcell issued a Report and Recommendation (doc. no. 5), recommending that petitioner, Tony Preciliand Overton's application for leave to proceed *in forma pauperis* (doc. no. 2) be denied and his 28 U.S.C. § 2254 action be dismissed without prejudice unless petitioner pays the full filing fee to the clerk of the court by July 29, 2019. Petitioner was advised of his right to file an objection to the Report and Recommendation by July 29, 2019 and was also advised that a failure to timely object to the Report and Recommendation would waive appellate review of the recommended ruling.

Petitioner has not objected to the Report and Recommendation within the time prescribed. Instead, the court is in receipt of a Motion for Extension of Time to Pay Filing Fee (doc. no. 6) filed by petitioner, wherein petitioner requests an additional 20 days to pay the \$5.00 filing fee.

Upon review, the court finds that petitioner should be granted an additional 20 days to pay the \$5.00 filing fee. Because petitioner has not specifically objected to Magistrate Judge Purcell's recommended ruling, the court shall accept, adopt and

affirm the Report and Recommendation to the extent it recommends that petitioner's application for leave to proceed *in forma pauperis* be denied and his action be dismissed without prejudice unless petitioner pays the full filing fee to the clerk of the court. Petitioner shall have 20 days from the date of this order to pay the \$5.00 filing fee to the clerk of the court.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Gary M. Purcell (doc. no. 5) is **ACCEPTED, ADOPTED** and **AFFIRMED** to the extent it recommends that petitioner's application for leave to proceed *in forma pauperis* be denied and his action be dismissed without prejudice unless petitioner pays the full filing fee to the clerk of the court.

Petitioner's Application to Proceed in District Court Without Prepaying Fees or Costs (doc. no. 2) is **DENIED**.

Petitioner's Motion for Extension of Time to Pay Filing Fee (doc. no. 6) is **GRANTED**. Petitioner shall have 20 days from the date of this order to pay the \$5.00 filing fee to the clerk of the court. If petitioner fails to pay the \$5.00 filing fee within 20 days from the date of this order, petitioner's 28 U.S.C. § 2254 action shall be dismissed without prejudice.

IT IS SO ORDERED this 6<sup>th</sup> day of August, 2019.



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STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE